Supreme Court, U.S.
FILED

932028 MAY 23 1994

OFFICE OF THE CLERK

No._____

In The

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1993

ENRICA STUART,

Petitioner

vs.

CITY OF RANCHO PALOS VERDES, ET AL.

Respondents

APPENDIX TO

PETITION FOR A WRIT OF CERTORIARI TO THE COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT

ENRICA STUART
80 Narcissa Dr.
Rancho Palos Verdes
California, 90274
Petitioner In Pro Per
(310)377-7608

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APPENDIX B-1

ORDER OF THE SECOND APPELLATE DISTRICT

DIVISION THREE

RANCHO PALOS VERDES RESORTS, INC. Plaintiff and Appellant v THE COUNTY OF LOS ANGELES et al. Defendants.	B077706 (Sup.Ct.No. BC018276)
CHARLES & ENRICA STUART, et al. Plaintiffs and Appellants VCR. COUNTY OF LOS ANGELES, et al. Defendants and Respondents	(Sup.Ct.No B018326) O R D E R

On the court's own motion and good cause appearing, IT IS HEREBY ORDERED that the order of dismissal dated November 29, 1993, is corrected to reflect both

superior court case numbers: BC018276 and BC018326. The cases were not consolidated in superior court; however, upon receipt of the notices of appeal, this court consolidated the cases numbers: B077395 (BC018326) and B077706 (BC018276), with all future filing carrying the case number B077706 only. The order of November 29, 1993, dismisses the appeals from both superior court case numbers BC018276 and BC018326

MINZ

Acting Presiding Justice

APPENDIX B-2

OFFICE OF THE CLERK
COURT OF APPEAL
STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT
JOSEPH A. LANE, CLERK

DIVISION: 3 DATE: 11/29/93

Charles and Enrica Stuart
80 Narcissa Drive
R. Palos Verdes, CA 90274

RE: Rancho Palos Verdes Resorts, Inc.
VCR
Los Angeles, County of
Palos Verdes Land Holdings Company
2 Civil B077706

Los Angeles NO. BC018276

THE COURT:

MOTION TO DISMISS APPEALS OF 7-27-93 & 8-10-93 GRANTED.

APPENDIX B-3

OFFICE OF THE CLERK
COURT OF APPEAL
STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT
JOSEPH A. LANE, CLERK

DIVISION: 3 DATE: 11/29/93

Charles and Enrica Stuart
80 Narcissa Drive
R. Palos Verdes, CA. 90274

RE: Rancho Palos Verdes Resorts, Inc.
VCR.
Los Angeles, County of
Palos Verdes Land Holdings Company
2 Civil B077706
Los Angeles NO. BC018276.

THE COURT:

BOTH REQUESTS FOR JUDICIAL NOTICE--

MOOT.

APPENDIX B-4

OFFICE OF THE CLERK
COURT OF APPEAL
STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT
JOSEPH A. LANE, CLERK

DIVISION: 3 DATE: 12/17/93

Charles and Enrica Stuart
80 Narcissa Drive
R. Palos Verdes, CA. 90274

RE: Rancho Palos Verdes Resorts, Inc.
VCR.
Los Angeles, County of
Palos Verdes Land Holdings Company
2 Civil B077706
Los Angeles NO. BC018276

THE COURT:

Petition for rehearing denied.

APPENDIX B-5

OFFICE OF THE CLERK
COURT OF APPEAL
STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT
JOSEPH A. LANE, CLERK

DIVISION: 3 DATE: 12/28/93

Charles and Enrica Stuart
80 Narcissa Drive
R. Palos Verdes, CA. 90274

RE: Rancho Palos Verdes Resorts, Inc.
VCR.
Los Angeles, County of
Palos Verdes Land Holdings Company
2 Civil B077706
Los Angeles NO. BC018276

THE COURT:

PERMISSION TO FILE STUARTS' NTC OF MISSTATEMENTS ETC.

DENIED. DOCUMENT RETURNED TO APPELLANTS.

APPENDIX C

STATEMENT OF DECISION OF THE SUPERIOR COURT

DATED June 2, 1993

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

RANCHO PALOS VERDES RESORTS, INC., a California Corporation Plaintiffs VCR.	CASE NO. BC018276 (Consolidated with Case No. BC 018326 STATEMENT OF DECISION
THE COUNTY OF LOS ANGELES; and DOES 1 through 50, inclusive, Defendants.	
AND RELATED CROSS ACTIONS.	
CHARLES and ERICA STUART, et al., Plaintiffs, VCR.	

COUNTY OF LOS ANGELES; BOARD)
OF SUPERVISORS OF THE COUNTY)
OF LOS ANGELES; CITY OF)
RANCHO PALOS VERDES;)
REDEVELOPMENT AGENCY OF THE)
CITY OF RANCHO PALOS VERDES,)
et al.,

Defendants.

During the year 1978, the area around the Abalone Cove Beach and Palos Verdes Drive South experienced earth movement as a result of ongoing, substantial and unusually heavy rainfall. Thereafter, dewatering wells were installed to stabilize the land and the Abalone Cove Landslide Abatement District (ACLAD) was formed to assist in this endeavor.

In 1979, a group of homeowners whose properties were located in the Abalone Cove landslide area sued the County of Los Angeles and the City of

Rancho Palos Verdes for damages in the case entitled Horan, et al. v. County of Los Angeles, et al., bearing Case No. C294752. In connection with the above litigation, plaintiffs and the County agreed to jointly appoint a Panel of Experts to determine what was entailed in stabilizing the earth movement in the Abalone Cove area. On December 17, 1984, the Panel of Experts issued its report which outlined the work to be done and concluded that the landslide area could be stabilized by the expenditure of approximately $10,000,000.

In January of 1985, the County of Los Angeles and the Los Angeles Fire Protection District filed an action against the City of Rancho Palos Verdes, its Redevelopment Agency and others

challenging a redevelopment plan which had been adopted vis-a-vis the construction of landslide improvements. The case was captioned County of Los Angeles, et al., v. All Persons Interested in the Matter of the Redevelopment Plan for the Rancho Palos Verdes Redevelopment Project in the City of Rancho Palos Verdes, etc., et al., bearing Case No. C530241.

Both of the foregoing lawsuits were amicably resolved in 1987. In that connection, the Horan plaintiffs were individually compensated in exchange for a dismissal of the lawsuit with prejudice and a full release of all claims. In addition, the county agreed to form and implement a County Improvement District within the Abalone Cove slide area. In order to fund the

stabilization efforts which were outlined by the Panel of Experts, the county also covenanted to sell bonds in the sum of $10,000,000 which would be secured by and payable from special assessments on the property located within the boundaries of the County Improvement District. The boundaries were the same as the ACLAD boundaries, with the only minor difference being that care was taken to insure that the boundary lines did not divide parcels. The referenced special assessments were to be imposed by the county pursuant to applicable law utilizing the "unit assessment formula," but it was also agreed to have a 10-year moratorium on the repayment of the bonds so that the tax increment funds deferred by the county could be used to pay down the

debt. The City of Rancho Palos Verdes agreed to perform the necessary stabilization work and to cooperate with the county as required in the creation of the County Improvement District. The entire settlement was conditioned on obtaining court approval pursuant to Section 877.6 of the California Code of Civil Procedure.

The above settlement was approved by the court and thereafter affirmed on appeal. In the interim, on February 9, 1988, the Board of Supervisors of the County of Los Angeles instituted proceedings under the Improvement Act of 1913 for the construction of landslide abatement improvements designated as County Improvement District No. 2651-M. The City Council of Rancho Palos Verdes adopted resolutions granting consent and

jurisdiction to the County of Los Angeles for the formation of County Improvement District No. 2651-M. Subsequently, on September 18, 1990, the Board of Supervisors of the County of Los Angeles unanimously adopted a Resolution of Intention for the formation of an assessment district and the acquisition of necessary rights of way and the installation of landslide abatement improvements under County Improvement District No. 2651-M. The Board of Supervisors also unanimously adopted a resolution on September 18, 1990 which scheduled November 29, 1990 as the date for a public hearing to consider protests of affected parties to the formation of the proposed improvement district. Notice of public hearing was duly given by posting

notices on all open streets within the proposed improvement district and by publishing the notice twice in an adjudicated newspaper of general circulation serving the area. Prior to the November 29, 1990 protest hearing, and in accordance with the directions of the Board of Supervisors, the Director of Public Works of the County of Los Angels prepared and filed with the Executive Officer-Clerk of the Board of Supervisors the Engineer's Report for the proposed improvement district as required by the Streets and Highways Code. On November 29, 1990, a protest hearing was conducted by the Board of Supervisors and plaintiffs as well as others submitted written protests objecting to the proposed improvement district. A decision by the Board of

supervisors was deferred until December 4, 1990, at which time it voted unanimously to approve the Engineer's Report, the Engineer's method of apportioning and spreading the costs for the improvement district and the Revised Assessment Role for the improvement district. Simultaneously, the Board of Supervisors for the County of Los Angeles voted unanimously to certify as complete and to approve the final environmental impact report which had been prepared relating to the proposed improvement district. The Board of Supervisors then voted unanimously to overrule the written protests and to proceed with the formation of the County Improvement District No. 2651-M.

The justification for the imposition of a special assessment

district is that the property to be assessed will receive a special benefit over and above that received by the general public. City of Baldwin Park v. Stoskus (1972) 8 Cal 3d 563, 568. The benefit to the assessed property must be different, or greater, from that received by the general public, and the assessment must be proportional to the benefit received. Harrison v. Board of Supervisors (1975) 214 Cal.App.3d 852. The special benefit may be the enhancement of the assessed property's value. A general benefit to the public at large from the improvements does not defeat the special assessment as long as such benefit is incidental, and not a primary purpose of the assessment. 70A Am.Jur.3d Section 23. The special benefit need not be direct or immediate,

and is not restricted to a present use of property, but any reasonable future use. 70A Am.Jur.3d Section 24.

The California Supreme Court has cautioned that, in terms of proportionality, assessments may be judicially invalidated only if, "there appears in the record convincing and conclusive evidence that under no conceivable conditions could the several parcels of land have been benefitted in the proportion stated by the assessment." White, supra, at 908-909, quoting from Cutting v. Vaughn, (1920) 182 Cal. 151, 156.

The overriding principle is that the public body's action regarding the establishment of an assessment district is legislative in nature, and not adjudicatory. Therefore, the statutory

scheme gives prospective assessees the right to a public hearing on the question of the assessments, not as litigants but as constituents, to express and lobby for their view before their elected officials.

Plaintiffs and intervenors have asserted that the boundaries of the Improvement District were improper, and tracked the terms of a settlement approval by the Superior Court. They allege that the Board of Supervisors did not exercise discretion as required by law.

In essence, the assessment herein applies to three types of property: land (improved and unimproved); habitable living quarters within the improved property; and public highways.

There is substantial evidence in the record to support the actions by the Board in enacting the Assessment District and adopting the unit assessment approach.

The Board exercised its discretion and approved the boundaries which were selected after extensive expert investigation reports and testing. The county engineer testified at the hearing before the Board. Reliance by the Board on the work of these experts as well as its own engineer was appropriate and proper.

The need for the project was directly stated at paragraph 2.0 of the Report involving the proposed district on page 1:

"Because of recent reactivation of landslides in the Abalone Cove area

and resultant damage and risks to homes and property, an urgency in implementing a stabilization program in the area was created."

The No-Project Alternative was describes as follows: "This alternative will result in continued health and safety risks, damage to homes and property, and obstacles to implementing the City's General Plan and Redevelopment Plan. This alternative was not preferred because of the continuing risk to health and safety and damage to homes and property."

The Report specifies the areas which will benefit: "Those benefitting directly from control of the active Abalone Cove landslide would include the owners of all property

within the boundaries of the active slide. Those benefitting indirectly would include all owners of property within the inactive portion of the ancient landslide complex adjacent to an upsilon from the active Abalone Cove landslide. Judicial invalidation of assessments (is appropriate) only if there appears in the record convincing and conclusive evidence that under no conceivable conditions could the several parcels of land have been benefitted in the proportion stated by the assessment.:

White v. County of San Diego (1980) 26 Cal.3d 897 at page 908.

The Court in Kalashin v. City of Fresno (1973) 35 Cal.App.3d 43 at

page 49 opined: "It is the settled law of this state that when a special assessment based on benefits is challenged by the landowner, it is not a court's function to determine the extent of the benefits. In the absence of fraud, gross injustice or demonstrable mistake,the judicial inquiry is limited to the determination of whether the property assessed would receive some substantial benefit."

See also Cogan v. City of Los Angeles (1973) 34 Cal.App.3d 516 at page 52

A special assessment will not be set aside by the court unless it clearly appears on the face of the record before the legislative body that the assessments are not proportional to

benefits to be bestowed on the properties to be assessed, or that no benefits will accrue to such properties. [Dawson v. County of Los Altos Hills (1976) 16 Cal.3d 676, 686.]

The question before the court is whether the members of the Board of Supervisors believed and voted or if they had no other option, i.e.: whether they had predetermined the issue. The court finds and concludes that the Board did exercise appropriate legislative discretion.

The Board's legal advisor, Mr. Pellman, told the Board that it had discretion to reject the settlement.

Mr. Pellman stated:

"Well, under the terms of the settlement agreement, the Board still has authority to deny this

to deny this particular approach .

(Lines 23-25, page 11, Exhibit B-2)

The record supports the finding that the properties outside of the active landslide are benefitted because they are a part of the ancient landslide complex, which is considered unstable. The record points out that re-activation of the existing landslide could remove support from areas within the ancient landslide complex and expand the slide into that area. Property values within the district boundaries would be jeopardized since the stability of the land is in question.

Under the circumstances and in accordance with the evidence presented, the Board could only approximate the appropriate boundaries within the guidelines submitted by the experts and

the exactness advocated by the plaintiffs was simply unobtainable as well as unrealistic.

It is evident that even inactive landslides must be stabilized to avoid future problems and that the earth movement activity encompasses involved boundaries of previous landslides.

> As one of the Reports stated on page 53: "Unless effective corrective measures are implemented, slide movement will probably continue for a prolonged period of time (several years) and the head of the slide is likely to propagate upsilon into areas not currently involved in the movement. the occurrence and extent of landslides cannot be predicted, all of the ancient landslide complex is

suspect ground, and movement in the active slide area could remove support for surrounding areas in the rest of the ancient landslide complex, enlarging the slide and depressing property values throughout the area."

The court cannot substitute its discretion for that of the Board of Supervisors. Even if some other formula might have been better or more appropriate, the Board of Supervisors' determination must be upheld as long as it was a rational exercise of discretion.

The fact that this whole area is an ancient landslide complex raises natural instability as one possible cause of future problems.

All of the properties are

benefitted by this effort at landslide mitigation. The properties either have suffered damage or are threatened with possible damage. Properties contiguous to landslide areas suffer a substantial loss of value even if they are not damaged in a particular slide.

Geology is not an exact science. The properties included in the assessment district were reasonably determined to be at risk. Predictability of the exact risk is not scientifically possible. The record indicates that slides in one portion of the district could well trigger slides in other portions. It was therefore appropriate to utilize the unit assessment formula.

The attempt to shift the burden of proof to the County relies exclusively

upon the cases of Redevelopment Agency of the City of Huntington Park v. Norm's Slauson (1985) 173 Cal.App.3d 1121 and San Bernardino Flood Control District v. Grabowski (1988) 205 Cal.App.3d 885.

The Norm's Slauson case was decided pursuant to a specific statutory scheme applicable only to condemnation cases. Section 1245.255(b) of the Code of Civil Procedure was the basis for the court in Norm's to shift the burden of proof to the condemning agency. That section refers to the effect given to the resolution of necessity, which is a specific resolution required in condemnation law. It was not formed as some generic legal principle.

Plaintiffs and intervenors bear the heavy burden of proving that the Board of Supervisors had predetermined the

result of the public hearing. They did discuss and consider other alternatives. The existence of the settlement agreement and the good faith settlement order was not sufficient evidence to shift the burden of proof.

The plaintiffs have not proved they were denied a fair hearing on the assessments. Neither have they shown that their properties were not benefitted, nor that the assessment formula was unfair.

Judgment for the defendants and against plaintiffs and intervenor. . .

DATED: June 2, 1993

Ralph Nutter, Judge
Los Angeles Superior Court
(Retired)

APPENDIX D

UNITED STATES CONSTITUTION

D-1. Article VI, Sect. 2 states:

"This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the Judges in every State shall be bound thereby, anything in the Constitution or law of any State to the contrary notwithstanding."

D-2. Amendment IX, Sect. 1. states:

"The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

D-3. Amendment X, Sect. 1. states:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

D-4. Article 1. Powers Granted to Congress. Section 8, Clause 3: "To regulate Commerce with foreign nations and among the several States and the Indian Tribes"

D-4 (a) Article 1, Sect. 8 Clause 18, (The Police Power)
states: "To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the

United States, or in any department or officer thereof."

D-5. Amendment I, Section 1.

"Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people to peacefully assemble, and to petition the Government for redress of grievances."

D-6. Amendment V, Section 1.

"No person shall be held to answer for a capital, or otherwise infamous crime . . . nor be deprived of life, liberty, or property, without due process of law; nor shall any private property be taken for public use,

without just compensation."

D-7, Amendment IV, Section 1.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable. . . seizures shall not be violated. . . "

D-8, Amendment XIV, Section 1.

". . . No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; or deny any person within its jurisdiction the equal protection of the law."

CALIFORNIA CONSTITUTION

D-9. Article I, Section 3.

"The people have the right. . . to petition the government for redress of grievances. . . "

D-10. Article I, Section 7(a)

"A person may not be deprived of life, liberty and property without due process of law, or denied equal protection of the law;. . . "

D-11. Article I, Section 7(b)

"A citizen or class of citizens may not be granted privileges or immunities not granted on the same terms to all citizens. . . "

D-12. Article I, Section 19

"Private property may be taken or

damaged for public use only when just compensation by a jury, unless waived, has been paid. . . "

D-13. Article III, Section 1.

"The State of California is an inseparable part of the United States of America and the United States Constitution is the supreme law of the land. . . "

D-14. Section 3.

"The powers of state government are legislative, executive and judicial. Persons charged with the exercise of one power may not exercise either of the others except as permitted by this Constitution."

D-15. Article IV Section 1.

"The Legislative power of the

State is vested in the California Legislature. . . "

D-16 Article IV, Section 8(b),

"The Legislature may make no law except by statute and may enact no statute except by bill. No bill may be passed unless it is read by title 3 days in each house. . ."

D-17. Article VI, Section 13.

"No judgment should be set aside. . . unless after an examination of the entire cause, including the evidence, the court shall be of the opinion that the **error** complained of has resulted in a miscarriage of justice".

D-18. Article XVII Section 19(a)

" . . . Notwithstanding any provision for debt limitation or

majority protest as in this section provided,. . . if such legislative body by no less than four-fifth vote of all members thereof, find and determines that the public convenience and necessity require such improvement or acquisition, such debt limitation and majority protest provisions shall not apply".

D-19. California Government Code Section 54950 states:

"In enacting this chapter, the Legislature finds and declares that public commissions, board and councils and other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be takenopenly and that their deliberations

be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serves them. The people, in delegating authority, do not give their public servants the right to decide what is good for them to know. The people insist on remaining informed so that they will may retain control of the instruments they have created."

D-20. Los Angeles County Charter of Incorporation.

"Section-11: (1),(3),(4) The Board shall provide by ordinance. . . "

"(6) To provide, publish and enforce a complete code of rules not inconsistent with the general laws. . . "

APPENDIX-E

FEDERAL AND STATE CASES

E-1

Armstrong, et al. v U.S. 364 US 40, Led 2d 1554, 80 S Ct 1563 (1960)

"The Fifth Amendment's guarantee that private property shall not be taken for a public use without just compensation was designed to bar Governments from forcing some people alone to bear public burden which, in all fairness and justice should be borne by the public as a whole. . . Cf Thibodo v Unite States(CA9Cal) 187 F2d 219"

E-2

Blake v Eureka, 201 Cal 643, 258 p. 645 (1927)

"A public entity has no authority

to contract with some property owners to assess others".

E-3

Bratton & Moretti v Finerman & Son, (1959) 171 Cal App2d 430, 435 340 Ped 673.

"The possibility of undue prejudice to parties is properly avoided by the discretionary power of the court to sever issue for trial"

E-4

Cinmar Inv. Co. v Reichard,(1966) 246 Cal App2d 498, 501, 54 Cal Rptr 810.

"The Trial Court is not permitted to refuse to assume jurisdiction of declaratory relief action where complaint set forth facts showing that declaratory adjudication is entirely appropriate"

Gibson v Ogden, 9 Wheaton 1, (February Term, 1984)

". . . Since, however, in exercising the power of regulating their purely internal affairs, whether trading or police, the states may sometime enact laws, the validity of which depend on their interfering with and being contrary to an act of Congress passed in pursuance of the constitution, the Court will enter into the inquiry, whether the laws of New York. . . have, in the application of this case, come into collision with an act of Congress and deprived a citizen of a right of which the act entitles him. Should this collision exist, it will be immaterial whether those laws where passed in virtue of a concurrent power. . . or in

virtue of a power to regulate their domestic trade and police. In one case or the other, the act of New York must yield to the law of Congress. . . "

E-6

Hone Building and Loan Association v Blaisdell, 290 U.S. (1934)

"Emergency does not create power. Emergency does not increase granted power or remove or diminish the restrictions imposed upon powers granted or reserved. The Constitution was adapted in a period of grave emergency. Its grant of power to the federal government and its limitation of the power of the States was determined in the light of emergency, and they are not altered by emergency. .. .Nevertheless emergency may afford a reason for the extension of power already enjoyed. . .

The constitutional question presented in light of an emergency is whether the power possessed embraces the particular exercise of it in response to particular conditions. . ."

E-7

National Elec. Supply Co. v.Mt Diablo Unified School District (1961) 9, Cal. Rptr. 864, 187, C.A. 2d 418)

". . . not every consolidation requires only one set of findings and one judgment."

E-8

Marina Development Co, v County of Los Angeles (1984) 155 Cal App3d 435, 443, 202 Cal Rptr. 377

"The purpose of declaratory relief is to liquidate uncertainties and controversies which may result in future litigations".

E-9

Miles Salt v Board of Commissioners
239 U.S. 478, 36 S Ct. 204 (1970)

"It is true that the law of the State as written is not attacked, but the law as administered and justified . . . is attacked and it is asserted to be a violation of the Constitution of the United States. The question presented is Federal and the motion to dismiss is denied and the consideration that move a denial of the motion move a decision on the merits of the question. . "

E-10

The People v The City of Los Angeles, (1923) Cal. App. 62.
p. 782 Civ. No. 4173

". . .in other words, the City Council determined the case

without having first heard the evidence. . .Among the finding of the trial court it appears to wit: 'That in passing the Ordinance. . .the City Council was moved . . by the payment and receipt from the Famous Players-Lasky Corporation of the aforesaid sum of $1,000. . .prior to the passage and publication of said ordinance. . .If the payment. . .was not the entire "moving cause', . . .it was at least part and parcel of it".

E-11

Zattenberg v State Department of Public Health, (1974) 43 Call App3d 657,662,118 Cal Rptr.100

"An actual controversy is required to bring a case to trial, relating to the legal rights and duties of the respective parties (CCP Sect.

1060), The controversy must be of a character which admits of specific relief by a judgment. . . Plaintiffs have standing only as they have suffered or are about to suffer a real injury."

F-1

HORAN ET. AL. SETTLEMENT AGREEMENT

"County agrees to assure the sale of bonds or other debt instruments issued to fund landslide abatement work in the Abalone Cove area. The issuance and assurance of sale of such debt instruments shall be in accordance with the Agreement dated June 11, 1987 between County, City and the Rancho Palos Verdes Redevelopment Agency ("Agency") referencing said instruments and shall be subject to the terms set forth therein. The performance of said Agreement by County is a material consideration for plaintiffs to enter into this Settlement Agreement."

PERONA, LANGER & BECK
Lawyers
300 San Antonio Drive
Long Beach, Ca. 90807

Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES

LAWRENCE AND PATRICIA) CASE HORAN, et. al.	NO. C 294752 (Consolidated with C 327256 and SWC 54217)
Plaintiffs	
vs.	NOTICE OF ENTRY OF ORDER GRANTING PLAINTIFF'S NOTICE OF MOTION AND MOTION TO COMPEL ENFORCEMENT OF WRITTEN SETTLEMENT AGREEMENT
COUNTY OF LOS ANGELES et.al.	
Defendants	

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

NOTICE IS HEREBY GIVEN that the Order Granting Plaintiff's Notice of Motion and Motion to Compel Enforcement

of Written Settlement Agreement has been signed by the Honorable Eli Chernow, Judge of the Superior Court and has been entered.

Dated: May 31, 1991 Ronald Beck,
Attorney for
Plaintiffs

F-3

RANCHO PALOS VERDES REDEVELOPMENT AGENCY TAX ALLOCATION AND REVENUE ANTICIPATION PROMISSORY NOTE.

$ 1,450,000 Dated: March 7,1989

The Rancho Palos Verdes Redevelopment Agency (the "AGENCY"), for value received, hereby acknowledges itself indebted to and promises to pay (but only out of Pledged Revenues as hereinafter defined) to the County of Los Angeles (the "County") . . .the sum of One Million Four Hundred and Fifty Thousands Dollars ($1,450,000), or a

lesser sum equal to the disbursements it has actually received from the County, . . .of lawful money of the United States of America, and to pay interest thereon, in like lawful money solely from said Pledged Revenues, . . .This note is a limited obligation of the AGENCY in that the principal thereof and the interest thereon shall be paid solely from and secured by the AGENCY's share of tax increment revenues (as determined pursuant to the Agreement between the AGENCY and the County, dated October 13, 1987), received or to be received from property taxes . . . and **from the proceeds of certain County improvement bonds. . ."**

April 1989

RANCHO PALOS VERDES
REDEVELOPMENT AGENCY
By Jacki Backarach
Chairman of the Board

BOARD OF SUPERVISOR MEETING OF SEPTEMBER 1990 AND HEARINGS OF NOVEMBER 29, 1990

Board of Supervisor Deane Dana during the September meeting stated:

"Yes I have been involved in this for a year or so now, and working with the City. . .Actually I think it is a wonderful think. . . And I know the City is proceeding to . . .in the Portuguese Bend area, to correct if. **The Abalone Cove area has already been stabilized where the** (inaudible) **drive goes along there, and we are no longer riding over a roller coaster in that particular area** and I would so move for approval. . ." Of the Agreement with the City and the Agency.

County Counsel De Witt Clinton at the September meeting, alluding to the Horan et.al. Agreement stated:

". . . I think the essence of this is we have a potential liability of twenty five to thirty million dollars ($25,000,000.00 to $30,000,000.00) and plaintiffs who have sufficient evidence that they can introduce against it and the opportunity to settle this at a cost of less than four million dollars ($4,000,000.00). And that is the square with relation to the people who have sued us"

County Counsel Mr. Pelman at the November Hearings Stated:

". . .the Assessment District is the **final** component of a settlement that was entered into by the Board in 1987.

Under the terms of the contract the County agreed . . . to make available certain funds for the rehabilitation of those properties. . . The settlement, at the same time, resolved a law suit between the County and the Redevelopment Agency. . .Under the terms of this Settlement Agreement the Board still has the authority to deny **this particular** approach. . .but that would affect the overall arrangement that has been entered into in 1987 . . .and we would have to renegotiate. . .or perhaps, go to trial"

November Hearing exchange between Mr. Ronald Beck, Supervisor Mike Antonovich and Supervisor Kenneth Hahn.

Supervisor Hahn: "

Mr. Beck I am amazed at the

testimony I heard this morning. . .that you would rather do something different than take money in this case"

Mr. Beck's response:

"Well, I did get something out of this. . .But we did give up our right to go to Court".

Supervisor Antonovich:

"Because it is Christmas and Hanukkah you are donating it to charity; Right?"

The full significance of the exchange is Mr. Beck's remarks: ". . .we gave up our rights to go to Court. . . " The sword over the head of the Supervisor was the deciding factor not "the public necessity and convenience" that was invoked to overrule the majority protest.

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SUPERIOR COURT OF THE COUNTY

OF LOS ANGELES

November 18, 1992

Honorable Charles Lee Judge

Nature of Proceedings:

Motion of Defendant City of Rancho Palos Verdes, Redevelopment Agency of the City of Rancho Palos Verdes for Summary Judgment, or, in the alternative, for judgment on the pleadings.

Denied without prejudice. The moving papers do not inform the court adequately of the cause(s) of action against defendants and how there are no triable issues of material facts as to the cause(s) of action. For example, the moving papers do not inform the court how many cause(s) of action are involved

and what is the nature of same.
Is this a single negligence cause of action, conspiracy to commit fraud, or what?"